

Senator Holsey offered a petition protesting against the passage of the Hayter drug bill. The petition was numerously signed.

Senator Sturgeon offered a like petition from citizens of his district.

TWELFTH DAY.

Senate Chamber,
Austin, Texas,

Wednesday, January 27, 1909.

Senate met pursuant to adjournment, President Pro Tem. Terrell of Bowie presiding.

Roll call, quorum present, the following Senators answering to their names:

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of
Hudspeth.	McLennan.
Hume.	Thomas.
Kellie.	Veale.
Masterson.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Perkins, the same was dispensed with.

EXCUSED.

On motion of Senator Watson, Senator Mayfield was excused for non-attendance upon the Senate on yesterday on account of important business.

BILLS AND RESOLUTIONS.

By Senator Harper (by request):

Senate bill No. 128, A bill to be entitled "An Act to amend Article 4833, Chapter 1, Title 98, of the Revised Civil Statutes of the State of Texas, relating to the annual salary of the Superintendent of Public Buildings and Grounds, and fixing the same at \$2500 per annum."

Read first time, and referred to Finance Committee.

By Senators Bryan and Hudspeth (by request):

Senate bill No. 129, A bill to be entitled "An Act for the relief of railway corporations having charters granted or amended since the first day of January, 1900, and which have failed or are about to fail to construct their roads and branches or any part thereof, within the time prescribed by law, and declaring an emergency."

Read first time, and referred to Committee on Internal Improvements.

By Senator Watson:

Senate bill No. 130, A bill to be entitled "An Act providing for the appointment of official shorthand reporters for district courts by the judges thereof to report cases; providing for the time and method of making and filing typewritten transcripts of such reports; providing for the time and method of making and filing statements of facts and bills of exceptions on appeals; providing for the qualifications, duties and compensation of such official shorthand reporters; repealing Chapter 24, page 509, Acts of the First Called Session of the Thirtieth Legislature of the State of Texas, and all other laws or parts of laws in conflict with this act, and declaring an emergency."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Hudspeth:

Senate bill No. 131, A bill to be entitled "An Act to amend Article 4759, Chapter 5, Title 97, of the Revised Statutes; providing for the manner in which the road and bridge funds of the several counties shall be expended."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Senter:

Senate bill No. 132, A bill to be entitled "An Act authorizing any county in the State of Texas having a population in excess of 50,000 inhabitants by the last preceding United States census, to submit to the qualified voters the propriety of a bond issue for the construction and maintenance of causeways, viaducts, bridges and approaches across any rivers within the limits of such county, and to provide for the construction, maintenance and use of such causeways, viaducts, bridges and approaches."

Read first time, and referred to Committee on Roads, Bridges and Ferries.

By Senator Hume:

Senate Concurrent Resolution No. 6: Resolved by the Senate, the House con-

curing, That the following resolution by the Board of Regents of the University of Texas be approved:

At a regular meeting of the Board of Regents of the University of Texas, held at Austin, January 19, 1909, the following minute was unanimously adopted:

Perceiving the far-reaching service of the Carnegie Foundation for the advancement of teaching in increasing the dignity of the teacher's office, in protecting the old age of unselfish public servants and assuring them that their wives will be provided for, even after their death, and in increasing the efficiency and promoting the education, the Regents of the University of Texas make application for the admission of the University of Texas into all the rights and privileges of this foundation for the advancement of teaching.

Read first time, and referred to Committee on Education.

Morning call concluded.

REASONS FOR VOTING.

I voted "no" on suspending the constitutional rule on the bill creating a new district court for Dallas county, for the simple reason that I am opposed ordinarily to the creation of any new offices, unless there is an imperative necessity for the creation of the office.

At the time I voted "no" I was under the impression that some means could be devised other than the creation of the new court whereby the congested condition of affairs in the Dallas courts could be relieved. Since then I have made investigation and found that it will be impossible to relieve the present condition of affairs in the Dallas courts at this time unless another court is created.

I find that the city and county of Dallas have a population of 180,000 people, and on the first day of December, 1908, there were 2530 cases pending for trial on the dockets of the two courts, and from December 1, 1906, to December 1, 1908, the two district courts disposed of 2645 cases; and notwithstanding this dispatch of business in the two said district courts, the number of suits pending in the two courts are continually and materially increasing.

The number of cases disposed of, as above stated, shows that the judges of the two courts have not been idle, and that they have been doing their duty.

If the present condition is not changed a man who borrows a sum of money and

executes his promissory note therefor, and who makes default in payment, can, by simply placing the case upon the jury docket, even though he has no defense, deprive his creditor from securing a judgment for at least two years.

Such a condition of affairs should not exist in Texas. And so believing that all citizens of Texas should have the right to go to a court for redress and get a speedy trial, and that no citizen of Dallas should be deprived of the right to enforce his legal rights in the courts of this country, I vote for the establishment of this court.

MAYFIELD.

FIRST HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, January 27, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

House bill No. 106, A bill to be entitled "An Act to amend Section 4 of an act entitled 'An Act to incorporate the city of Waco and to define its boundaries and powers,' passed by the Twenty-first Legislature, and approved February 19, 1889; said Section 4 having been amended by Section 1 of an act passed by the Twenty-fifth Legislature, Chapter 3, page 7, Special Laws of Texas, 1897, and by Section 7, page 219, Chapter 25, Special Laws of Texas 1905, and said Section 4, as amended, is here now amended by changing the number of officers and the method of their election and fixing salaries of some of same, and generally prescribing their duties and powers; and this act further amending said Act of 1889 by amending and re-enacting Section 3 of an act passed by the Twenty-ninth Legislature and approved March 30, 1905, all this act relating to the municipal government of the city of Waco, which said Section 3 begins on page 213 and ends on page 215 of the Special Laws of Texas of 1895 and is amendatory of said Act of 1889 with its amendments."

Respectfully,

BOB BARKER,
Chief Clerk, House of Representatives.

BILL READ AND REFERRED.

The Chair (President Pro Tem. Terrell) had referred, after its caption had been read, the following House bill:

House bill No. 106 (see caption in above message).

Read and referred to Committee on Towns and City Corporations.

SENATE JOINT RESOLUTION NO. 1.

The Chair then laid before the Senate, as pending business,

Senate Joint Resolution No. 1, being a resolution to amend Article 16 of the Constitution of the State of Texas, by adding thereto Section 58, when a majority of the qualified electors for members of the Legislature of Texas at an election for that purpose shall vote in favor of the amendment.

Pending.

EXECUTIVE MESSAGE.

Executive Office,
State of Texas.

Austin, Texas, January 27, 1909.

To the Senate:

The advice and consent of the Senate is requested to the following appointments:

For Regents of the Texas State University—T. S. Henderson, A. W. Terrell, Hampson Gary, George W. Brackenridge, J. W. McLaughlin, M. D., T. B. Greenwood, N. W. Finley, A. W. Fly, M. D.

For Board of Directors of the A. & M. College—K. K. Legett, A. Haidusek, W. P. Sebastian, T. D. Rowell, A. R. McCollum, Walton Peteet, John M. Green, Ed R. Kone.

For Trustees of the State Lunatic Asylum at Austin—F. T. Ramsey, A. S. Phelps, Dr. G. H. Wooten, F. G. Reynolds, Wm. H. Stacy.

For Trustees of the State Blind Institute—Frederick C. Von Rosenberg, Wm. G. Bell, W. M. Thornton, Dr. R. M. Wickline, Sidney Nolen.

For Trustees of the Deaf and Dumb Asylum—I. P. Lockridge, Dr. L. L. Lacy, O. E. Olander, John E. Shelton, Joe Cohen.

For Board of Managers of the Confederate Home at Austin—W. C. Walsh, Val C. Giles, Paul F. Thornton, Ben E. McCulloch, W. H. Richardson, Sr.

For Trustees of the Deaf, Dumb and Blind Asylum for Colored Youths—Charles Stephenson, Morris Silver, Jas. H. Hart, Kyrie Thrasher, George S. Dowell.

For Trustees of the Epileptic Colony at Abilene—W. M. Lacy, John Bowyer,

Dr. L. L. Grizzard, S. P. Hardwick, David G. Hill.

For Trustees of the College of Industrial Arts at Denton—Clarence Ousley, Mrs. Birdie R. Johnson, Miss M. E. Brackenridge, Arthur Lefevre, Mrs. Mattie R. Turner, Jas. H. Lowry, Dr. J. P. Blount.

Board of Managers for the State Orphan Home at Corsicana—John A. Thompson, W. L. Derden, L. E. McCormick, W. B. Parker, Mrs. Carrie Pannill.

State Board of Medical Examiners—Dr. Ed Becton, Dr. Jas. G. Osborne, Dr. W. B. Collins, Dr. G. B. Foscue, Dr. J. J. Dial, Dr. J. D. Mitchell, Dr. M. E. Daniel, Dr. R. O. Braswell, Dr. J. T. Crow, Dr. J. P. Rice, Dr. J. F. Bailey.

T. M. CAMPBELL,

Governor.

EXECUTIVE SESSION—TIME SET FOR.

Senator Meachum moved that the Senate go into executive session on tomorrow at 11 o'clock a. m., for the purpose of considering the above appointments by His Excellency the Governor.

The motion prevailed.

(Senator Brachfield in the chair.)

SENATE BILL NO. 57—PASSAGE OF.

On motion of Senator Alexander, the pending order of business (Senate Joint Resolution No. 1) was suspended, and the Senate took up, out of its order, Senate bill No. 57, by the following vote:

Yeas—30.

Adams.	Murray.
Alexander.	Paulus.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Masterson.	Watson.
Mayfield.	Weinert.
Meachum.	Willacy.

Absent.

Peeler.

The Chair laid before the Senate, on second reading,

Senate bill No. 57, A bill to be entitled "An Act putting into effect the constitutional amendment adopted by the people at the last general election, relating to public schools, by amending Sections 50, 57, 58, 59, 60, 61, 63, 65, 66, 76, 77, 78, 80, 81 and 154, and adding 154a, of Chapter 124 of the Acts of the Regular Session of the Twenty-ninth Legislature, relating to school districts and school funds, repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Bill read second time, and ordered engrossed.

On motion of Senator Alexander, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put on its third reading and final passage by the following vote:

Yeas—26.

Adams.	Meachum.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Perkins.
Greer.	Real.
Harper.	Senter.
Hayter.	Sturgeon.
Holsey.	Terrell of Bowie.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Masterson.	Weinert.
Mayfield.	Willacy.

Nays—5.

Cofer.	Terrell of
Murray.	McLennan.
Stokes.	Watson.

The bill was read third time, and passed by the following vote:

Yeas—31.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of
Hudspeth.	McLennan.
Hume.	Thomas.
Kellie.	Veale.
Masterson.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Senator Alexander moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

HOUSE BILL NO. 106—WACO CHARACTER BILL.

On motion of Senator Terrell of McLennan, the pending business (Senate Joint Resolution No. 1) was suspended, and the Senate took up, out of its order, House bill No. 106, by the following vote:

Yeas—29.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of
Hudspeth.	McLennan.
Hume.	Thomas.
Kellie.	Veale.
Mayfield.	Ward.
Meachum.	Watson.
Murray.	Willacy.

Absent.

Masterson. Weinert.

On motion of Senator Terrell of McLennan, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put on its second reading, by the following vote:

Yeas—30.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Masterson.

On motion of Senator Terrell of McLennan, the Senate rule requiring com-

mittee reports to lie over for one day was suspended, for the purpose of considering this bill (see Appendix for committee report), by the following vote:

Yeas—30.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Masterson.

The Chair laid before the Senate, on second reading,

House bill No. 106, "Waco City Charter Bill."

On motion of Senator Terrell of McLennan, the committee report, which provided that the bill be not printed, was adopted.

Bill read second time, and passed to a third reading.

On motion of Senator Terrell of McLennan, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put on its third reading and final passage by the following vote:

Yeas—30.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Masterson.

The bill was read third time, and passed by the following vote:

Yeas—30.

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Hume.	Veale.
Kellie.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Masterson.

Senator Terrell of McLennan moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

ADJOURNMENT.

Senator Harper moved that the Senate adjourn until tomorrow morning at 10 o'clock.

Senator Holsey moved, as a substitute, that the Senate adjourn until 9 o'clock tomorrow morning.

Action recurred on the longest time first, and the motion to adjourn until 10 o'clock tomorrow morning prevailed.

APPENDIX.

COMMITTEE REPORTS.

(Floor Report.)

Austin, Texas, January 27, 1909.

Hon. J. M. Terrell, President Pro Tem. of the Senate.

Sir: Your Committee on Towns and City Corporations, to whom was referred

House bill No. 106, A bill to be entitled "An Act to amend Section 4 of the charter of the city of Waco,"

Have had the same under consideration, and report it back to the Senate with the recommendation that it do pass, and be not printed.

Senter, Chairman; Cofer, Real, Terrell of McLennan, Hume, Alexander, Willacy, Holsey, Sturgeon, Masterson and Peeler.

(Floor Report.)

Austin, Texas, January 27, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: We, the undersigned members of your Committee on Stock and Stock Raising, to whom was referred

Senate bill No. 35, A bill to be entitled "An Act to exempt the county of Val Verde from the provisions and operations of Articles 5002 to 5042, inclusive, of Chapter 6, Title 102, of the Revised Statutes of 1895, relating to the inspections of hides and animals, and repealing all laws in conflict therewith, and declaring an emergency,"

Have had the same under consideration, and beg to report it back to the Senate with the recommendation that it do pass, and be not printed.

Adams, Chairman; Alexander, Bryan, Veale, Murray, Real, Willacy and Hudspeth.

Committee Room,

Austin, Texas, January 27, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Military Affairs, to whom was referred

Senate bill No. 32, A bill to be entitled "An Act to amend Section 31, of Chapter 104 of the Acts passed by the Twenty-ninth Legislature, entitled 'An Act to define and provide for organizing and disciplining the militia; to prescribe the duties of the Governor, the Adjutant General and all officers and enlisted men thereof; to define military offenses; to provide for the trial and punishment thereof; to provide for the pay, transportation and subsistence of the militia when called into active service, and to repeal all laws in conflict therewith, and declaring an emergency'; by increasing the Assistant Adjutant General's salary to \$1500 per year, and declaring an emergency,"

Have had the same under consideration, and beg leave to report it back to the Senate with the recommendation that it do pass.

KELLIE, Chairman.

(Majority Report.)

Committee Room,

Austin, Texas, January 26, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 12, A bill to be entitled

"An Act to amend Article 3231, Chapter 11, Title 62, of the Revised Civil Statutes of Texas, 1895, relating to the verdict of juries in civil cases, so as to provide that in the trial of civil cases nine members of the jury concurring may render a verdict in the district court, and five jurors concurring may render a verdict in the county court and court of justice of the peace, and repealing all laws and parts of laws in conflict herewith,"

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do not pass.

MEACHUM, Chairman.

(Minority Report.)

Committee Room,

Austin, Texas, January 26, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: We, a minority of your Judiciary Committee No. 1, to whom was referred

Senate bill No. 12, A bill to be entitled "An Act to amend Article 3231, Chapter 11, Title 62, of the Revised Civil Statutes of Texas, 1895, relating to the verdict of juries in civil cases, so as to provide that in the trial of civil cases nine members of the jury concurring may render a verdict in the district court, and five jurors concurring may render a verdict in the county court and court of justice of the peace, and repealing all laws and parts of laws in conflict herewith,"

Have had the same under consideration, and beg leave to report same back to the Senate with the recommendation that it do pass.

Brachfield, Cofer, Thomas, Stokes and Senter.

Committee Room,

Austin, Texas, January 26, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 121, A bill to be entitled "An Act to amend Article 1647, Chapter 13, Title 33, of the Revised Civil Statutes of Texas, 1895, so as to allow a judgment in the justice court to be rendered against a non-resident upon a notice to serve a non-resident, so that said article may hereafter read as follows, and declaring an emergency."

Have had the same under consideration, and I am instructed to report same

back to the Senate with the recommendation that it do pass.

MEACHUM, Chairman.

(Majority Report.)

Committee Room,

Austin, Texas, January 26, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 117, A bill to be entitled "An Act to provide adequate punishment for any person who shall engage or act in the capacity of a locomotive engineer or train conductor upon any railroad in the State of Texas, without having first served three years as a locomotive fireman or engineer, or if engaged as a conductor on any railroad train in this State, he shall be punished as herein provided if he engages to so act without first having served two years as a brakeman or conductor of a freight train; to punish any person who shall knowingly engage, promote, require, persuade or prevail upon, or cause any person to do any act in violation of this act,"

Have had the same under consideration, and report it back to the Senate with the recommendation that it do not pass.

HARPER, Chairman.

(Minority Report.)

Committee Room,

Austin, Texas, January 26, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 117, A bill to be entitled "An Act to provide adequate punishment for any person who shall engage or act in the capacity of a locomotive engineer or train conductor upon any railroad in the State of Texas without first having served three years as a locomotive fireman or engineer, or if engaged as a conductor on any railroad train in this State he shall be punished as herein provided, if he engages to so act without first having served two years as a brakeman or conductor of a freight train; to punish any person who shall knowingly engage, promote, require, persuade or prevail upon or cause any person to do any act in violation of this act,"

Have had the same under considera-

tion, and report it back to the Senate with the recommendation that it do pass, with the following amendment:

Amend Section 4 by adding thereto the following: "In case of emergency where such companies can not obtain the employees mentioned in this act who have the qualification prescribed by the provisions thereof, then such companies may employ temporary firemen, engineers and conductors who have not the qualifications prescribed by this act, but no such employment shall continue longer than such companies can supply their respective places with men who have the qualifications prescribed by this act; and provided further, that nothing herein contained shall relieve any of such companies from the negligence of any of its employees."

ALEXANDER,
STOKES.

Committee Room,

Austin, Texas, January 26, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 111, A bill to be entitled "An Act to define and regulate the practice of professional nursing; to create a board of nurse examiners for the examination of nurses, and to prescribe their qualifications; to provide for their registration, and to fix suitable penalties for the violation of this act, and declaring an emergency,"

Have had the same under consideration, and report it back to the Senate with the recommendation that it do pass.

HARPER, Chairman.

(Majority Report.)

Committee Room,

Austin, Texas, January 26, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 92, A bill to be entitled "An Act to amend Article 375, Penal Code of the State of Texas, relating to and prohibiting raffling, affixing a penalty thereto, and providing an emergency,"

Have had the same under consideration, and report it back to the Senate with the recommendation that it do pass.

HARPER, Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, January 26, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 92, A bill to be entitled "An Act to amend Article 375, Penal Code of the State of Texas, relating to and prohibiting raffling, affixing a penalty thereto, and providing an emergency,"

Have had the same under consideration, and report it back to the Senate with the recommendation that it do not pass.

WATSON.

Committee Room,
Austin, Texas, January 26, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 110, A bill to be entitled "An Act making it a criminal offense punishable by fine for any person in this State to use any vulgar, profane, obscene or indecent language over or through any telephone, and declaring an emergency,"

Have had the same under consideration, and report it back to the Senate with the recommendation that it do pass, with the following amendment:

Strike out the words "or she" in Section 1, line 3, before the words "shall be guilty of a misdemeanor."

HARPER, Chairman.

(Majority Report.)

Committee Room,
Austin, Texas, January 26, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 27, A bill to be entitled "An Act to prohibit the manufacture of intoxicating liquors in this State or the exchange, barter or sale thereof therein, except for medicinal, mechanical or sacramental purposes, and the repeal of all laws in conflict herewith, and declaring an emergency,"

Have had the same under consideration, and report it back to the Senate with the recommendation that it do not pass.

HARPER, Chairman.

(Minority Report No. 1.)

Committee Room,
Austin, Texas, January 26, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: A minority of your Judiciary Committee No. 2, to whom was referred

Senate bill No. 27, A bill to be entitled "An Act to prohibit the manufacture of intoxicating liquors in this State, or the exchange, barter or sale thereof therein, except for medicinal or sacramental purposes, and the repeal of all laws in conflict herewith, and declaring an emergency,"

Have had the same under consideration, and report it back to the Senate with the recommendation that it do pass.

STURGEON.

(Minority Report No. 2.)

Committee Room,
Austin, Texas, January 27, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: A minority of your Judiciary Committee No. 2, to whom was referred

Senate bill No. 27, A bill to be entitled "An Act to prohibit the manufacture of intoxicating liquor in this State, or the exchange, barter, or sale thereof therein, except for medicinal, mechanical or sacramental purposes, and the repeal of all laws in conflict herewith, and declaring an emergency,"

Have had the same under consideration, and report it back to the Senate with the recommendation that it do not pass, but that the following substitute do pass in lieu thereof:

A BILL

To be entitled

An Act to amend Chapter 138, page 258, of the General Laws passed by the Thirtieth Legislature, which act sought to be amended was an act to regulate the sale and disposition of spirituous, vinous and malt liquors and medicated bitters capable of producing intoxication, and the places wherein same are sold; imposing an occupation tax upon persons, firms, corporations and associations of persons, selling spirituous, vinous or malt liquor or medicated bitters capable of producing intoxication; requiring retail liquor dealers and other persons to secure license to sell such liquors, and defining retail liquor deal-

ers and regulating the business thereof; requiring retail malt dealers and other persons to secure license to sell malt liquors exclusively, capable of producing intoxication, and defining retail malt dealers and regulating the business thereof; exempting wine growers who sell wine of their own production from the provisions of this act, provided same is not sold to be drunk on the premises where sold, and otherwise regulating the business of such wine growers; regulating the transfer of licenses of retail liquor dealers and retail malt dealers; prescribing the conditions of the bonds of such retail dealers upon which licenses to such dealers and other persons may be issued; providing for the refund of any unearned portion of any license upon the death of the licensee; requiring the county clerk to report all licenses granted to the Comptroller of Public Accounts; providing for the revocation under certain conditions of licenses issued; defining intoxicating liquor and providing penalties for the violation of this act, so that the same will hereafter read as follows, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Hereafter there shall be collected from every person, firm, corporation or association of persons selling spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, in this State, not located in any county or subdivision of a county, justice precinct, city or town where local option is in force under the laws of Texas, an annual tax of three hundred and seventy-five dollars (\$375), on each separate establishment; provided further, that nothing in this article shall be so construed as to exempt druggists who sell spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, on the prescription of a physician or otherwise, from the payment of the tax herein imposed; provided further, that this article shall not apply to the sale by druggists of tinctures and drug compounds, in the preparation of which such liquors or medicated bitters are used and sold on the prescription of a physician or otherwise, and which tinctures and compounds are not intoxicating beverages prepared in the evasion of the provision of this chapter nor the local option law. The commissioners court of the several counties in this State

shall have the power to levy and collect from every person or association of persons selling spirituous, vinous or malt liquors or medicated bitters, a tax equal to one-half the State tax herein levied; and where any such sale is made in any incorporated city or town, such city or town shall have the power to levy and collect a tax upon such sale equal to that levied by the commissioners court of the county in which such city or town is situated.

Sec. 2. A liquor dealer is a person or firm permitted by law, being licensed under the provisions of this act; to sell spirituous, vinous and malt liquors and medicated bitters capable of producing intoxication, in quantities of one gallon and over, consisting of one kind of such liquor in one vessel, not to be opened or drunk on the premises where sold.

Sec. 3. No person shall directly or indirectly sell spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, without taking out a license as provided for in this bill. Any person who shall violate the provision of this act shall be deemed guilty of a felony and upon conviction therefor shall be punished by confinement in the penitentiary for not less than one year nor for more than three years.

Sec. 4. Any person who shall sell any spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, in quantities of less than ——— gallon, which shall be contained in one vessel, shall be deemed guilty of a felony and upon conviction therefor shall be punished by confinement in the penitentiary for a period of time not less than one year nor more than three years.

Sec. 5. Any person who shall sell any spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, under a license as provided for in this act, and shall permit the same to be opened or drunk on the premises where such place of business is being conducted, such person shall be deemed guilty of a felony, and upon conviction therefor shall be punished by confinement in the penitentiary for a period of time not less than one year nor more than three years.

Sec. 6. This act shall not be so construed as to deny the right of wine-growers to sell wine of their own production in any quantity without licenses; provided that such wine growers shall not permit nor suffer any wine so sold

by him to be drunk on his premises; and provided further, that this section shall not be so construed as to give any wine grower the right to sell any wine to any minor without the permission of the parent, master or guardian of such minor first had and obtained, or any drunkard after being notified by any relative to such drunkard not to make such sale, gift or disposition. Every wine grower who shall violate any of the provisions of this section shall be deemed guilty of a felony and upon conviction therefor shall be punished by confinement in the penitentiary for a period of time not less than one year nor more than three years.

Sec. 7. No liquor dealer, nor malt dealer, nor dealer in medicated bitters capable of producing intoxication, shall carry on said business at more than one place at the same time under the same license; nor shall any such license be assignable or transferable more than once, but before the assignee or transferee of such license can engage in business thereunder, he shall comply with the provisions of this act as is required of the original licensee; and provided, further, that the sale of such license, whether in the name of the original licensee or transferee may be made under execution or mortgage, and the purchaser of such license at such sale shall have the right to surrender such license to the State, county or city which issued the tax receipt which is basis therefor, and shall receive therefor the pro rata unearned portion of such license; provided, further, that should said original licensee or his assignee or transferee desire to change the place designated in said license, he may do so by applying to the county judge as in case of the original application, for license as provided in Section 9 of this act, but it shall be necessary to furnish another certificate from the Comptroller of Public Accounts.

Sec. 8. Any person or firm having a license as a liquor dealer or a malt dealer, or a dealer in medicated bitters capable of producing intoxication, and who shall be convicted of selling, or permitting to be sold, or giving or permitting to be given any intoxicating liquors to a minor or of permitting a minor to enter and remain on his place of business, or of permitting any games, prohibited by the law, to be played, dealt or exhibited, in or about his place of business, or to rent or to let his place of business, or any part thereof, for such purpose or purposes,

or of permitting prostitutes and lewd women to enter and remain in his place of business, shall, in addition to the punishment herein prescribed, forfeit his license as a liquor dealer, or a malt dealer, or a dealer in medicated bitters capable of producing intoxication, as the case may be, and the court in which such conviction is had, shall cause such forfeiture to be entered in the judgment of conviction, and such liquor dealer or malt dealer or dealer in medicated bitters capable of producing intoxication, shall thenceforward be deemed to have no license, and the clerk of such court shall certify such forfeiture to the Comptroller of Public Accounts, as elsewhere herein provided.

Sec. 9. That hereafter, any person or firm desiring a license as a liquor dealer or a malt dealer or a dealer in medicated bitters capable of producing intoxication in any locality within the State other than where local option is in force, shall make application under oath to the Comptroller of Public Accounts of the State, on forms to be provided by him, for a permit to apply for a license to engage in such business, which said application shall state the county and locality therein where such person or firm desires to engage in such business, the name and place of residence of the person making the application, and if the applicant is a firm, the style of the same, and the names and places of residence of the individual members thereof, as the case may be, and that such person or firm or any member thereof, are not disqualified under the laws of this State regulating and affecting the sale of intoxicating liquors from engaging in such business, thereupon it shall be the duty of the Comptroller to examine and act upon such application, and if he is satisfied that such applicant is entitled to such permit, he shall issue the same, which said permit shall state all the facts and things herein required to be stated in the application, and shall be attested by the Comptroller and bear the impress of the seal of his office for which the Comptroller shall be entitled to a fee of one dollar to be tendered by the applicant when the application is presented.

Sec. 10. Any person or firm desiring a license as a liquor dealer or as a malt dealer or a dealer in medicated bitters capable of producing intoxication, may in vacation or in term time file a petition with the judge of the county court of the county in which he desired to

engage in such business, which petition shall have attached thereto the permit required by Section 9 hereof, as an exhibit to such petition, shall state that the applicant is a law-abiding, tax-paying male citizen of the State of Texas, over the age of twenty-one years, and has been a resident of the county wherein such license is sought for more than two years next before the filing of such petition; that his license as a liquor dealer, malt dealer or a dealer in medicated bitters capable of producing intoxication, has not been revoked or forfeited within two years next before the filing of such petition; that he desires a license as a liquor dealer, or as a malt dealer or a dealer in medicated bitters capable of producing intoxication, as the case may be, specifically stating the place where such business is to be conducted, describing with reasonable certainty the house or place wherein the same is to be kept. And, if the place of business be in any block or square of any city or town where there are more bona fide residences than there are business houses on said block or square, or in any block where there is a church or school, then said petition shall be accompanied with the written consent of a majority of bona fide householders of the residences in said block or square. Upon filing of the petition herein provided for, the county judge shall set the same for hearing at a time not less than ten or more than twenty days from the filing of the same, and if, upon the trial or hearing thereof, he finds the facts stated in said petition are true and that the same is accompanied by the permit aforesaid, he shall grant a license such as prayed for; provided, however, that upon the filing of such petition, the clerk of the county court shall give notice of the filing thereof, by posting upon the courthouse door a written notice of such petition, together with the substance thereof. And the petition when filed shall remain with the said clerk until the same is acted upon by the county judge and shall be open to the inspection of any person desiring to see the same. And any resident taxpaying citizen residing or owning property in the block or square where said business is to be conducted, or county or district attorney shall be permitted to contest the facts stated in such petition and applicant's right to obtain the license sought, upon giving security for all costs which may be incurred in such suit, should the same

be decided in favor of applicant; provided, no county nor district attorney shall be required to give bond for such costs, but the county or State, as the case may be, shall be liable therefor.

Sec. 11. Upon the hearing of the petition, as provided in Section 10 hereof, the county judge shall determine the truth or falsity of the facts alleged, and shall render his judgment granting or refusing the license accordingly, and shall cause the same to be recorded at length in a book kept for that purpose, which book shall be a record of said court and shall be preserved by the clerk thereof as an archive in his office.

Sec. 12. Upon the granting of a license by the county judge, as provided by law, the clerk shall furnish the applicant with a certified copy of the judgment, which, when exhibited to the county tax collector by him and the payment to said collector of the license tax herein provided for; said collector shall receive said license tax and issue to such applicant his receipt therefor, showing the amount paid, date of payment, for what paid, whether liquor dealer or malt dealer or a dealer in medicated bitters capable of producing intoxication, and where such business is to be conducted.

Sec. 13. Upon the presentation to the county clerk by the applicant, of the tax collector's receipt, provided for in the preceding section, and delivery to him of the bond provided for in Section 15 of this act, he shall examine such bond and receipt, and if such bond conforms to the provisions of said Section 15 hereof, and if such receipt conforms to the judgment authorizing the same, he shall issue to the applicant the proper license, which shall be by him signed, be under the seal of his office, be dated, state on its face for what it is issued, the date when it will expire, by whom and where such business is to be conducted, and shall describe the place where the same is to be kept.

Sec. 14. That every person or firm having a license, under the provision of this act who may be engaged in, or who may hereafter engage in the sale of intoxicating liquors in any locality in this State, other than where local option is in force, shall close and keep closed their houses and places of business and transact no business therein or therefrom, from and after twelve o'clock midnight until five o'clock a.m. of each week day, and shall close and keep closed their houses and places of business and transact no business there-

in or therefrom, from and after twelve o'clock, midnight, Saturday until five o'clock a. m. of the following Monday of each week, and any such person or firm, or his or their agent or employe, who shall open or keep open, or permit to be open or kept open, any such house or place of business for the purpose of traffic, or who shall sell or barter any intoxicating liquor or merchandise of any kind, or who shall transact or permit to be transacted therein or therefrom any business between the hours aforesaid, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than \$25, nor more than \$200, or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment, and in addition thereto, upon the complaint or petition of the county attorney the license of said dealer may be revoked according to the practice and procedure as set forth in Section 18 of this act.

Sec. 15. That every person or firm desiring to engage in the sale of spirituous, vinous, or malt liquors or medicated bitters capable of producing intoxication, shall before engaging in such sale, be required to enter into a bond in the sum of \$5000; provided, however, that any person or firm dealing exclusively in malt liquors shall be required to give bond only in the sum of \$1000, with at least two good, lawful and sufficient sureties, and the sureties required by law on the bonds of liquor dealers shall make affidavit, before some officer authorized to administer oaths, that they, in their own right over and above all exemption, are each worth the full amount of the bond they sign as sureties, and no county judge shall approve any such bond unless the affidavits as provided for in the preceding section shall have been duly made. The approval of any such bond by the county judge without such affidavit shall make such county judge liable for any penalty recovered on such liquor dealer's bonds, and any person who shall make false affidavit as required by this act, shall be punished as provided for in the Penal Code of this State. Provided, that nothing herein shall prevent the making of such bond by a surety company as permitted by law, payable to the State of Texas; to be approved as to security by the county judge, conditioned that said person or firm so selling spirituous, vinous, or malt liquor or medicated bitters capable of producing intoxication, shall keep an open,

quiet and orderly house or place for the sale of spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, and that such person or firm, or his or their agent or employe, will not sell nor permit to be sold in his or their house or place of business nor give nor permit to be given any spirituous, vinous, or malt liquors or medicated bitters capable of producing intoxication, to any person under the age of twenty-one years, or to a student of any institution of learning, or to any habitual drunkard, or to any person after having been notified in writing through the sheriff or other peace officer by the wife, mother, daughter or sister of the person, which said notice shall be in force and effect for a period of two years, not to sell to any such person; and that he or they will not permit any person under the age of twenty-one years to enter and remain in such house or place of business; that he or they will not permit any games prohibited by the laws of this State to be played, dealt or exhibited in or about such house or place of business, and that he or they will not rent or let any part of the house or place of business in which he or they have undertaken to sell spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, to any person or persons for the purpose of running or conducting any game or games prohibited by the laws of this State; and that he or they will not adulterate the liquors sold by them in any manner, by mixing the same with any drug; and that he or they will not knowingly sell or give away any impure or adulterated liquors of any kind; which said bond shall be filed in the office of the county clerk of the county where such business is conducted, and shall be recorded by such clerk in a book to be kept for such purpose, for which service said clerk shall be entitled to a fee of 75 cents, which said bond may be sued on at the instance of any person or persons aggrieved by the violation of its provisions, and such person shall be entitled to recover the sum of \$500 as liquidated damages for each infraction of the conditions of such bond, and the said bond shall not be void on the first recovery, but may be sued on until the full penal sum named therein shall have been recovered. In addition to civil proceeding for individual injuries brought on said bond as above indicated. if any person or firm shall violate any of the conditions of the bond herein requir-

ed, it shall be the duty of the county and district attorney, or either of them, to institute suit thereupon, or any person owning real property in the county may institute suit thereupon, in the name of the State of Texas, for the use and benefit of the county, but no compensation shall be allowed such citizen, and he may be required to give security for costs, and the amount of \$500 as a penalty shall be recovered from the principals and sureties upon the breach of any of the conditions hereof; and hereafter when any recovery is had by any person or by any county or district attorney for the use and benefit of the county, in any action in any court of competent jurisdiction, or the bond of any person or firm engaged in the sale of spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication in any locality other than where local option is in force, upon the ground that such license sold or permitted to be sold, or gave or permitted to be given away any such liquors to a minor in his place of business, or permitted a minor to enter and remain in his place of business, or sold such liquor to any person after having been notified in writing not to sell to such person, or that such licensee permitted prostitutes or lewd women to enter and remain in his place of business, or permitted any games prohibited by the laws of this State to be played, dealt or exhibited in or about his place of business, or of renting or letting his place of business or any part thereof for such purpose or purposes; the license of such person or firm shall, by reason of such recovery, be forfeited, revoked and canceled, and the court entering such judgment of recovery shall also enter an order declaring forfeited, revoked, and canceled such license and the unearned portion of the occupation tax paid therefor shall not be refunded, but shall be forfeited to the State and county, city or town to which the money for the same may have been paid. And any person or firm who shall sell any such liquors or medicated bitters without first giving bond as required by this act, or who shall sell the same after said license shall have been forfeited, revoked and canceled, shall be deemed guilty of a felony and on conviction shall be punished in the same manner as provided for where no license has been obtained. An open house in the meaning of this chapter is one in which no screens or other device is used or placed inside or outside of such house

or place of business for the purpose of, or that will obstruct the view through the open door or place of entrance into any such house or place of business where intoxicating liquors are sold.

A quiet house or place of business in the meaning of this chapter is one in which no music, loud or boisterous talking, yelling or indecent or vulgar language is allowed, used or practiced, or any other noise calculated to disturb or annoy any person residing or doing business in the vicinity of such house or place of business, or those passing along the streets or public highway.

By an orderly house is meant one in which no prostitutes or lewd women or woman are allowed to enter or remain, and it is further provided that said house must not contain any vulgar or obscene pictures.

Any surety on such bond may relieve himself from further liability thereon by giving the principal in said bond notice in writing that he will no longer remain as surety thereon, and by filing with the county judge an affidavit that such notice has been given, and if within five days after such notice he fails to make a new bond he shall cease to pursue said business until a new bond is given. Any person who shall continue to pursue said business after such notice is given and such affidavit is filed shall be guilty of felony and shall be punished as provided in cases where no license has been procured; provided, that where the sale to an habitual drunkard is made in good faith, with the belief that he is not an habitual drunkard, and there is good ground for such belief, that shall be a valid defense to any recovery on such bond; provided, the provisions of this act shall apply to suits by the State or of an individual. Provided that no license shall be issued under this act to any person who had been convicted of a felony and served such term of conviction.

Sec. 16. In the event of the death of any licensee under this act, leaving an unearned portion of any license issued under this act, the heirs, executors, administrators or legal representatives of such deceased person may present the license of such person to the State, county, city or town and receive payment for the unearned portion of such license tax collected by them, respectively.

Sec. 17. The clerk of the county court shall make out a statement of all such licenses granted by him and the amount

paid the collector on each for the State and county taxes and report the same to the Comptroller of Public Accounts of the State.

Sec. 18. Whenever it shall be shown to the county judge upon the written application of any reputable taxpaying citizen that any licensee under this act of said county had not at times since the issuance of his license kept an orderly house, setting forth the time or times when said licensee has failed to keep an orderly house, and how and in what respect he has failed to keep an orderly house, such judge shall receive such application and file the same and immediately notify said licensee of the filing of said application, and that such application will be heard by said county judge upon its merits five days after the service of such notice on said licensee. If, on the hearing of said application, the county judge ascertains the facts in said application to be true, and that said licensee has not at all times since the issuance of his license kept an orderly house, said county judge shall order the license of such licensee to be revoked, and from the date of such order or revocation the licensee shall be deemed to have no license. If the facts in said application are found not to be true, said application shall be dismissed, and all costs of such proceedings awarded against the party filing such application. In the event said application is found to be true, and the license of said licensee is revoked, then all costs shall be adjudged against said licensee. Any such licensee who may feel aggrieved at the ruling of said county judge under any application shall have the right of appeal from such order, the same as any other civil case now provided by law.

Sec. 18a. That hereafter when the license issued to any person or firm to engage in the sale of spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, in any locality other than where local option is in force, has been declared forfeited, revoked and canceled by a final judgment of any court of competent jurisdiction within this State, whether such judgment is had in a civil or criminal proceeding, as provided in this act, it shall be the duty of the clerk of such court to immediately certify such forfeiture under the seal of such court to the Comptroller of Public Accounts of the State of Texas, which said certificate shall state the date of such forfeit-

ure, the county and court in which it was declared, the number and the nature of the cause, whether civil or criminal, and the name and residence of the licensee or defendant, the name of the person or the style of the firm, and the names and places of residence of the individual members of any such firm or the name and place of residence of any such person, as the case may be, as shown by the application for license filed by such person or firm in the county court, or as determined by the judgment of the court in which the proceeding was had, stating in which, for which service the clerk shall receive a fee of one dollar, to be taxed and collected as costs against the defendant or defendants in such proceeding, civil or criminal. And it shall be the duty of the Comptroller upon receiving any such certificate to file and record the same in a book to be kept by him for such purpose, and thereafter no permit or license shall be issued to any such person or firm or to any member of any such firm to engage in the sale of spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, within the period of two years from and after the date of entry by the court of such final judgment.

Sec. 19. Every person engaged in the sale of spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, or other person who shall sell, give away or otherwise dispose of, or suffer the same to be done about his premises, any intoxicating liquor in any quantity, to any minor, without the written consent of the parent, master or guardian of such minor first had and obtained, or who shall have in his employ about his place of business, or who shall permit any minor to enter and loaf or remain in his place of business, shall be guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not less than \$25 nor more than \$200, or by imprisonment in the county jail for not longer than sixty days, or by both such fine and imprisonment.

Sec. 20. Any sale, gift or other disposition of intoxicating liquors made to any minor without the permission or consent herein required, or to any habitual drunkard, or on any Sunday or election day by any agent, clerk or other person acting for any liquor dealer or malt dealer, or dealer in medicated bitters capable of producing intoxication, or other person, shall be deemed and

taken to be for all purposes of this act as the act of such liquor dealer, malt dealer or dealer in medicated bitters capable of producing intoxication, or other person.

Sec. 21. No license as a dealer in spirituous, vinous or malt liquors, or in medicated bitters capable of producing intoxication, shall be issued to any person whose license as either such dealer has been revoked or forfeited within two years before the filing of his application for license or who has had in his employ in his business as a dealer in spirituous, vinous or malt liquors, or in medicated bitters capable of producing intoxication, any person whose license has been revoked or forfeited within two years next before the filing of such application.

Sec. 22. No license shall be granted to any person as a dealer in spirituous, vinous or malt liquors, or medicated bitters capable of producing intoxication, who shall have carried on any such business after the expiration of his license previously issued, and without having received a license for such purpose, or whose license shall have been revoked or forfeited under the provisions of this act within two years before the filing of his application for such license. No license shall be issued to any person to do business as a dealer in spirituous, vinous or malt liquors, or in medicated bitters capable of producing intoxication, in any house or building used for the purpose of prostitution or as a house of assignation or as a house of ill fame or gambling house. If after a license has been issued to a dealer in spirituous, vinous or malt liquors, or in medicated bitters capable of producing intoxication, the building in which same is located shall be used for the above-mentioned purposes, or any of them, his license may be revoked upon application, as hereinbefore provided.

Sec. 23. It shall be unlawful for any dealer in spirituous, vinous or malt liquors, or in medicated bitters capable of producing intoxication, to use, exhibit, suffer to be kept, exhibited or used in his place of business, any piano, organ or other musical instrument whatever, for the purpose of performing upon or having the same performed upon in such place, or to permit any sparring, boxing, wrestling or any other exhibition or contest, or cock fight in his place, or to set up, keep, use or permit to be kept or used in or about his said premises, or by any other person, or to

run or to be run in connection with such place of business, in any manner or form whatever, any billiard table, pool table or gambling table, bowling or tenpin alley, cards, dice, dominoes or any other device for gaming or playing any game of chance, or to permit any person to play in, on or with such tables, alleys, cards, dice, dominoes or other device of any kind. Any dealer in spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, violating any of the provisions of this section, shall, upon conviction, be fined in a sum not less than \$25 nor more than \$200, or by imprisonment in the county jail for not longer than thirty days, or both such fine and imprisonment.

Sec. 24. No dealer in spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, shall employ or suffer to be employed any female as a servant, bartender or waitress other than a member of his own family in his place of business, nor permit on said premises any dancer, singer or lewd woman, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than twelve months or by a fine of not exceeding \$500, or by both such fine and imprisonment.

Sec. 25. It shall be unlawful for any dealer in spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication to sell, give away or otherwise dispose of, or suffer the same to be done about his premises, any intoxicating liquors to any habitual drunkard after he shall have been notified by the wife, father, mother, brother, sister, child or guardian of such person, not to sell, give away or furnish to such person any intoxicating liquors, and any dealer in spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication violating this section shall be fined not less than \$25 nor more than \$200, or by imprisonment in the county jail for not exceeding six months, or punished by both such fine and imprisonment.

Sec. 26. This article, or any of the provisions thereof, shall not be construed to be in conflict with any local option law now or hereafter to be in force in this State, and no license to any dealer in spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication shall be issued

or shall be effective at any place where local option law is in force and operation.

Sec. 27. The license required by this article shall be posted in some conspicuous place in the house where the business or occupation for which such license is necessary is carried on, before engaging in such business or occupation, and any person so licensed who fails to post the same shall be fined not exceeding \$100.

Sec. 28. It shall be unlawful for any person to sell, or offer for sale, any intoxicating liquors at any place where people have assembled for religious worship, or for educational or literary purposes, or at any election precinct on any election day, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than \$50, nor more than \$200, or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.

Sec. 29. The county clerk of any county in this State having a population of more than 50,000 inhabitants shall make out a list of all persons then having a license under the provisions of this act, and shall deliver the same to each grand jury empaneled in such county. Said list shall be arranged in alphabetical order; shall give the names of the persons to whom same were issued, the date of its issue, the date it will expire, stating whether the same is a dealer in spirituous, vinous or malt liquors or a dealer in medicated bitters capable of producing intoxication, and shall describe where said license was to be used.

Sec. 30. The judges of the district courts in this State shall give this act in special charges to each grand jury empaneled in their respective districts.

Sec. 31. The county clerk, county judge and other officers shall receive for services rendered in the carrying out of this law such fees as are now allowed by law for similar services.

Sec. 32. In case the license of any dealer in spirituous, vinous or malt liquors or in medicated bitters capable of producing intoxication is forfeited under any of the provisions of this act, nevertheless such licensee shall be authorized to sell or dispose of in bulk any stock of intoxicating liquors he may have on hand at the time such license is forfeited.

Sec. 33. The term "intoxicating

liquor," as used in this article, shall be construed to mean fermented, vinous or spirituous liquors, or any composition of which fermented, vinous or spirituous liquors is a part; and all the provisions of this article shall be liberally construed as remedial in their character.

Sec. 34. All laws and parts of laws in conflict with this act are hereby expressly repealed.

Sec. 35. The fact that the calendar is greatly crowded and the fact of the near approach of the close of the session, create an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is accordingly hereby suspended.

ALEXANDER.

Committee Room,

Austin, Texas, January 27, 1909.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills, have carefully examined and compared

Senate bill No. 67, A bill to be entitled "An Act to reorganize the Thirty-second Judicial District, the Thirty-fourth Judicial District, the Thirty-ninth Judicial District and the Sixty-third Judicial District, and creating the Sixty-eighth Judicial District of the State of Texas; to fix the time of holding the court in each of said districts; to provide for the appointment of a district judge and a district attorney for the Sixty-eighth Judicial District, and to provide for the return of all process to each of the counties in each of said districts, and to provide for the attachment of certain unorganized counties in said districts to certain organized counties in said districts for judicial and all other purposes, and to repeal all laws and parts of laws in conflict herewith,"

And find the same correctly engrossed.

WARD, Chairman.

PETITIONS AND MEMORIALS.

By Senator Veale:

We, the undersigned citizens of Amarillo, Texas, believing a State training school for children to be a necessity for reclaiming incorrigibles, endorse the bill providing for such an institution, as prepared by joint committees from the County Judges and Commissioners' Association of Texas and the Texas Federation of Women's Clubs, and hereby

request our legislators to give the bill their immediate support.

Numerously signed.

Senator Terrell of McLennan offered a petition of Z. I. Harlan and twenty others of Marlin, Falls county, against the enactment of a bank guaranty law.

Also, a petition of D. R. Criswell and seventy-eight other citizens of Buckholts, Milam county, protesting against the passage of the so-called druggist bill.

By Senator Sturgeon:

Hon. P. B. Sturgeon, Austin, Texas:

We, the undersigned citizens of your county and district, desire to protest against that part of the Hayter bill in the Senate that levies a tax of \$100 per month on wagons that sell us domestic remedies at our homes. Of course, you are aware that these men are not the old-fashioned "medicine peddlers" that this bill strikes worst, and they have proven a great convenience to us, and conduct their business with us just as other concerns do, and to stop them can only benefit a retail store. Their line is a special line prepared for farmers' needs and they supply us quite satisfactorily. We should regulate this industry, but let us remember that it is a State institution, and we should encourage them.

Numerously signed.

By Senator Perkins:

January 25, 1909.

Senator Tom W. Perkins, Austin, Texas:

We, the undersigned citizens of your district, respectfully and earnestly urge you to vote for and give your support to the passage of the Mayfield-Meachum bill, prohibiting pool selling, book making and wagering on horse races.

Signed—Bert Beall, C. B. Jones, J. E. Morris and 57 other citizens of Hunt county.

Senator Holsey offered a numerously signed petition from Kaufman county favoring a State training school for children.

By Senator Watson:

Smithville, Texas, January 14, 1909.

To the Hon. Senator Watson, Austin, Texas.

Dear Sir: We, the undersigned citizens and taxpayers of the city of Smithville, being deeply interested in a bill about to be introduced in the House of

Representatives of the Thirty-first Legislature of Texas by the Hon. Roger Byrne, Representative from the Fifty-ninth Floterial District, intended to prohibit the practice of railroad companies sending locomotives, cars and equipment out of this State to shops located in other States to be overhauled, renovated and repaired, when they have ample facilities and shops in this State capable of doing the work just as good, as cheaply and expeditiously. And believing this practice to be as unjust as unnecessary, taking employment away from Texas citizens and depressing the business interests of every community where a railroad shop is located; in short, taking "Texas money out of Texas," we respectfully request that you give this bill serious consideration, and if you can consistently do so, use your influence in its support and vote for its passage.

Thanking you in advance, we remain,
Respectfully yours.

Numerously signed.

By Senator Ward:

Senator P. B. Ward, Austin, Texas:

We, the undersigned citizens of your district, respectfully and earnestly urge you to vote for and give your support to the passage of the Mayfield-Meachum bill, prohibiting pool selling, book making and wagering on horse races.

Numerously signed.

By Senator Bryan:

Merkel, Texas, January 23, 1909.

To the Honorable Legislature of Texas:

We, the undersigned citizens of Taylor county, Texas, who served in the armies of the Confederate States, request that the Confederate pension law be amended on the lines suggested by Comptroller Stephens in his report to Governor Campbell.

Numerously signed.

Senator Mayfield offered a petition from citizens of his district, protesting against the passage of what is known as the druggist bill.

Senator Mayfield offered the following:

Hon. E. B. Mayfield, Senator, at Austin.

Sir: We, the undersigned farmers and taxpayers of Bosque county, hereby protest against the passage of Senate bill No. 11, House bill No. 97, House bill No. 93, Senate bill No. 19, and particularly against the passage of Senate

bill No. 9, which provides for an unjust, unreasonable and prohibitive license for itinerant venders of medicines as free American citizens. We wish to be able to purchase goods wherever we please, which would be impossible if this bill were passed. We consider that a license for itinerant venders of medicines, etc., should not exceed \$75 per annum in each county, and should be payable to the road and bridge fund in the county where the business is transacted.

Numerously signed.

By Senator Veale:

To the Hon. John W. Veale:

We, the undersigned, would respectfully petition you to support the measure known as the "Texas Itinerant Drug Venders' Bill," which has for its object the regulation of the itinerant vending of medicines, nostrums and appliances for the treatment of disease, injury or deformity, and to provide for the licensing of venders of the same.

Numerously signed.

By Senator Perkins:

Celina, Texas, January 20, 1909.

Hon. Tom W. Perkins, Senator, Austin, Texas.

Dear Sir: Regarding the bank deposit guarantee bill, we believe if such a law were passed it would demoralize sound, safe and conservative banking.

We believe the disadvantages of such a law would far exceed the advantages.

Such a law provides for an unlimited mutual liability for all the defalcations, lack of judgment, dishonest and incompetent bankers, without any recognition of the time-tried, strong banker, who may have spent a lifetime in building up his reputation.

We beg that you oppose the guarantee of bank deposits.

Signed—W. G. Harris, W. T. Thorp and 17 other Celina citizens.

By Senator Veale:

Hon. John W. Veale, Austin, Texas:

We, the undersigned citizens of your county and district, desire to protest against that part of the bill proposed for enactment that places a tax of \$100 on salesmen of medicine from wagons, and who call on us, in that it places a tax of \$100 per month, which no man can pay, and will drive them out.

We do so for this reason: These men sell us medicines just as a store conducts business, but from wagons, com-

ing to our homes, and this has proven a great convenience to us. The goods are first-class and we can't see where it will benefit the people. It ought to be regulated, but not discriminated against, and the only people we can see that will be benefited is the retail store.

We appeal to you to consider this matter for us.

Numerously signed.

By Senator Senter:

Senator E. G. Senter, Austin, Texas:

We, the undersigned citizens of your district, respectfully and earnestly urge you to vote for and give your support to the passage of the Mayfield-Meachum bill, prohibiting pool selling, book making and wagering on horse races.

Signed by 20 citizens of Senator Senter's district.

By Senator Senter:

Dallas, Texas, January 16, 1909.

To the Hon. E. G. Senter, W. L. Crawford, Jr., C. M. McCallum, E. C. Lively, Jeff D. Cox, Senator and Representatives of the Sixth District of Texas, Austin, Texas.

Dear Sirs: As citizens of Texas and breeders of harness horses (trotters and pacers and thoroughbred runners), and as believers in the wonderful educational value of our great State fairs, as well as of the various county fairs, we would most respectfully request that you look carefully and impartially into this question before you become a party to such drastic legislation as will be proposed on racing at this session of the Legislature. The horse industry in Texas has grown in the past few years in wonderful strides, and our best horses now find ready sales in the large cities of the United States, and in fact, in all of the markets of the world. Their wonderful speed and endurance has been proven on the speedways and race tracks, and their commercial value by prices obtained by private vendue as well as in the great public sale marts. In fact the climate and the grasses of Texas are peculiarly adapted to horse raising but the industry could not and did not prosper until richly bred stallions and mares were imported into the State and the value of their produce was fully demonstrated; then the ranch owners, as well as the small breeders, all over the State, began to breed their best mares to high-class stallions. The agricultural fairs, with racing as an incident, but a very important one, have

been very largely instrumental in bringing about this change, and many millions of dollars are now invested in this industry, and in the opinion of the writer (if unimpaired by drastic legislation) almost the entire horse stock of this State will be impregnated with this better blood, and its value wonderfully increased in the very near future.

There are about 1,200,000 head of horses in this State; comparatively a few years ago they were not worth on an average more than \$15 per head. It is not unreasonable to expect, with the better blood and the better care and attention that is given with increased values, that within the next ten or fifteen years the horses of the State will be worth \$60 to \$80 average, an increase of between \$50,000,000 and \$60,000,000.

Of course, comparatively few of these horses are ever raced, but some are especially prepared, raced successfully, and sold for high figures. This special notoriety and extra money value of the few stimulates every owner of a colt remotely akin to these noted horses to take extra care of his colts, to grow them better, to educate them more carefully, and to make them truly useful for the purposes for which they are intended, which in a great majority of cases is for better buggy horses, carriage horses, express horses, saddle horses and farm horses, and they are vastly more useful for the large or small breeder who raises them for any of the purposes named, and worth two or three times as much if sold in the open market as the unimproved horse would be.

We are ready to admit that under the present racing law much wrong is being done, and we are anxious to see such legislation as will correct it, and are confident a plan can be adopted that will, in a very great measure, remove the objectionable features without materially injuring the fairs and destroying the vested rights of thousands of citizens, and depreciating the horse values of the State \$5,000,000 to \$10,000,000. A law abolishing bookmaking and the pool rooms and substituting auction pools and Paris mutuals, which, while they allow betting, force the sport to be clean and fair, leaving no incentive to pull horses by jockeys, or to practice what is known as commercial racing. It does away with the "tout" and hanger on, and has been inaugurated and successfully operated under government

control in France, Austria and Argentine Republic for many years. We would further suggest that the racing be confined to the agricultural fairs, only one meeting to be held at one place during one year, and that be limited to fifteen days. This will allow the fairs to live and will not destroy the horse.

It has taken years of strenuous exertion and millions of money to build this industry to its present pretentious proportions. We do not believe that you, the honored representatives of this great State, will destroy it.

Very respectfully yours,

HENRY EXALL.

President Texas Harness Horse Breeders' Association.

G. L. BLACKFORD,

President Texas Thoroughbred Association.

Dallas, Texas, January 18, 1909.

To the Hon. E. G. Senter, W. L. Crawford, Jr., C. M. McCallum, E. C. Lively, Jeff D. Cox, Senator and Representatives of the Sixth District of Texas, Austin, Texas.

Gentlemen: We, the undersigned, beg herewith to hand you a communication from the horse breeders of Texas, representing an industry, invested in which they have more than \$5,000,000. We heartily endorse the suggestions and sentiment contained in this communication and beg to ask your kind consideration of the same.

Acting upon the request in said communication, a bill has been prepared and will be handed you by our representative, Mr. B. E. Cabell, who will fully explain the same to you.

Thanking you in advance for your favorable consideration of this matter, we beg to remain,

Yours very respectfully,

STATE FAIR OF TEXAS,

EDWIN KIENT, President,

LYON SMITH, Secretary.

Signed by about 3000 citizens.

By Senator Adams:

Senator W. W. Adams, Austin, Texas:

We, the undersigned citizens of your district, respectfully and earnestly urge you to vote for and give your support to the passage of the Mayfield-Meachum bill, prohibiting pool selling, book making and wagering on horse races.

Numerously signed.

THIRTEENTH DAY.

Senate Chamber,
Austin, Texas,
Thursday, January 28, 1909.

Senate met pursuant to adjournment,
President Pro Tem. Terrell in the chair.

Roll call, quorum present, the following Senators answering to their names:

Adams.	Paulus.
Alexander.	Peeler.
Brachfield.	Perkins.
Bryan.	Real.
Cofer.	Senter.
Greer.	Stokes.
Harper.	Sturgeon.
Hayter.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Thomas.
Kellie.	Veale.
Masterson.	Ward.
Mayfield.	Watson.
Meachum.	Weinert.
Murray.	Willacy.

Absent.

Hume.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Perkins, the same was dispensed with.

RESIGNATION OF STENOGRAPHER.

Austin, Texas, January 28, 1909.
To the President of the Senate:

Having been appointed stenographer in the Governor's office, I hereby tender my resignation as stenographer in the Senate from the Third Senatorial District, to take effect at once, and in doing so I wish to thank the President of the Senate and each member of same for my appointment as stenographer of the Senate and for their kind and courteous treatment while acting as such.

Yours respectfully,
M. T. BARRETT.

On motion of Senator Sturgeon, the resignation was accepted.

Senator Murray moved that Senator Sturgeon be allowed to select a successor to Mr. Barrett, the vacancy being from his district.

The motion was adopted by a rising vote.

SENATE BILL NO. 54 PRINTED IN FULL.

Committee Room,
Austin, Texas, January 27, 1909.
Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Education, to whom was referred

Senate bill No. 54, A bill to be entitled "An Act for the establishment, maintenance and government of a State normal school to be located at Thorp's Spring, Texas, and to be known as the Brazos Valley Normal, and making an appropriation therefor,"

Have had the same under consideration and I am instructed to report same back to the Senate with the recommendation that it be printed in full in the Journal for the information of the Senate. The committee will give it further consideration later.

ALEXANDER, Chairman.

On motion of Senator Harper, the above report was adopted.

Following is the bill in full:

S. B. No. 54. By Alexander.

A BILL

To be entitled

An Act for the establishment, maintenance and government of a State normal school, to be located at Thorp's Spring, Texas, and be known as the Brazos Valley Normal, and making an appropriation therefor.

Section 1. Be it enacted by the Legislature of the State of Texas: That there shall be established at the college, heretofore known as the Add-Ran-Jarvis College, at Thorp's Spring, in the county of Hood, Texas, a normal school to be known as the Brazos Valley Normal, provided that the board of trustees of the Add-Ran-Jarvis corporation shall, within thirty days after this act takes effect, convey, or cause to be conveyed, to the State of Texas by a good and perfect title, the school building and grounds belonging to the said Add-Ran-Jarvis College, which said conveyance shall be approved by the Governor and Attorney General.

Sec. 2. When said conveyance is duly approved by the Governor and Attorney General, said building and grounds belonging to or used by said Add-Ran-Jarvis College shall pass to and be under the control of the State Board of Education and on or before the third Monday in September, A. D. 1909, the